

requirements of law, Presidential directive or Administration initiative, or a congressional or other mandate to meet new or expanded mission requirements by a particular date. In a request for direct-hire authority due to a critical hiring need, an agency must provide sufficient evidence to demonstrate that filling the position(s) is critical to the agency's mission and that the use of other hiring authorities is impracticable or ineffective.

To provide agencies with the ability to use the new direct-hire authority, as appropriate, for temporary and term appointments, emergency-indefinite appointments in a national emergency, and overseas limited appointments, OPM is revising 5 CFR 230.402, Agency Authority to Make Emergency-indefinite Appointments in a National Emergency; 5 CFR part 301, subpart B, Overseas Limited Appointments; 5 CFR 316.302, Selection of Term Employees; and 5 CFR 316.402, Procedures for Making Temporary Appointments.

This interim regulation will add subpart B to 5 CFR part 337 and amends 5 CFR parts 230, 301 and 316.

#### **Elimination of Outside-the-Register Procedures**

OPM is eliminating 5 CFR part 333, Recruitment and Selection for Temporary and Term Appointments Outside the Register, based on its conclusion that this hiring authority is now obsolete.

The current outside-the-register procedure is available for use only when there is an insufficient number of eligibles on the appropriate register. OPM initially established these procedures to give agencies an alternative to traditional examining methods when there were not enough qualified eligibles on a particular register. The Act, however, provides OPM with the authority to permit agencies to utilize an alternative to traditional examining methods (*i.e.*, direct-hire authority) when there is a severe shortage of candidates possessing the competencies to perform the job requirements or a critical hiring need. Currently, agencies using outside-the-register procedures are required to provide public notice, apply veterans' preference, and provide selection priorities to certain displaced employees. These requirements are essentially the same as those for the new direct-hire authority. Based upon the foregoing, the current procedures for outside-the-register appointments under 5 CFR part 333 are duplicative and no longer needed, and we are therefore eliminating this regulation.

This interim regulation removes 5 CFR part 333.

#### **Elimination of the TAPER Authority**

Based on the elimination of the outside-the-register authority, OPM is also eliminating the Temporary Appointments Pending the Establishment of a Register (TAPER) authority. The TAPER authority was proposed for elimination in 1996, but was ultimately retained to provide agencies with a simplified examining process when filling Worker-Trainee (GS-1 and WG-1 and 2) positions with applicants who had limited education and experience. The decision to retain this authority thus was in response to the Governmentwide need, in connection with the "Welfare to Work" initiative, to provide opportunity for welfare recipients to enter the workforce.

Within the past several years, OPM has authorized the use of a number of alternative hiring flexibilities to assist agencies when recruiting individuals with limited education and experience. For example, in 1999, OPM gave agencies authority to use alternatives to the written test normally required when making appointments to clerical positions. These changes, combined with the flexibilities provided by the Act, give agencies the authority to bypass the selection procedures established in title 5 of the United States Code in appropriate circumstances, and therefore obviate the need for an authority to temporarily appoint an individual pending establishment of a register.

Eliminating this regulation will not adversely affect employees currently serving under TAPER appointments. These individuals will continue to work under these appointments until they have completed the 3 years of service that entitles them, under 5 U.S.C. 3304a, to be converted to career appointments. Based on the foregoing, there is no longer a need to retain the TAPER authority.

This interim regulation eliminates 5 CFR part 316, subpart B.

#### **Category Rating and Selection Procedures**

Title 5 U.S.C. 3319 provides agencies with the authority to develop a category-based rating method as an alternative way of assessing and rating job applicants for positions filled through the competitive examining process. Traditionally, applicants for Federal jobs are assigned numerical scores, including veterans' preference points, if appropriate, and are considered for selection based on the "rule of three" (5

U.S.C. 3318(a)). The category rating system prescribed by the Act does not add veterans' preference points or apply the "rule of three" but protects the rights of veterans by placing them ahead of non-preference eligibles within each category. For all positions other than scientific and professional positions at GS-9 (and equivalent) or higher, otherwise qualified preference eligibles who have a compensable service-connected disability of at least 10 percent must be listed in the highest quality category. This requirement is similar to the provisions of 5 U.S.C. 3313, which are used in numerical rating.

Under a category rating system, the agency assesses candidates against job-related criteria and then places candidates into two or more pre-defined categories. The categories are defined through a job analysis conducted in accordance with the "Uniform Guidelines on Employee Selection Procedures," at 29 CFR part 1607 and 5 CFR part 300. The categories must be distinct from one another and clearly differentiate between the relative quality of candidates in each. For example, an agency could adopt a two-category system in which the higher category is used for those candidates who meet minimum qualifications and are highly proficient in all the requirements of the job, while the lower category is reserved for those candidates who meet the minimum qualifications and are proficient in some, but not all, of the requirements of the job. For each position to be filled, an agency must decide in advance if they will assess candidates using the traditional numerical ranking and "rule of three" procedures or category rating, and must publish this information in the job announcement. When using the category rating procedure, the job announcement must then clearly define the categories.

Specific guidance on using the category rating process will be included in OPM's Delegated Examining Operations Handbook ([www.opm.gov/deu/](http://www.opm.gov/deu/)).

The category rating process provides for selections to be made from the highest category or, if fewer than three candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second-highest quality categories. If a preference eligible is in the category, an agency may not select a non-preference eligible unless the agency requests to pass over the preference eligible, and its request is approved. Objections to a preference eligible must be processed by the agency's delegated